



Nooksack Indian Tribe Natural Resources Department

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U.S. Army Corps of Engineers
Attn: CECW-CE, Douglas J. Wade
441 G Street NW
Washington, DC 20314-1000

RE: Process for Requesting a Variance from Vegetation Standards for Levees and Floodwalls.

Dear Mr. Wade,

On behalf of the Nooksack Tribe, I am writing to request that you give adequate environmental review to the proposed changes to the process for requesting a variance from vegetation standards for levees and floodwalls. This federal action directly affects Threatened chinook salmon, bull trout and steelhead in the Nooksack River watershed and its tributaries, and the Usual and Accustomed areas of the Nooksack Tribe, as defined in the Boldt Decision (U.S. v. Washington, 384 F. Supp. 312 (W.D. Wash. 1974)). The Nooksack Tribe relies on the maintenance of high quality in-stream habitat to ensure that these species will recover to a level that allows sustainable harvest of salmon.

A key component of high quality in-stream habitat is shade on the river, organic matter contribution and hiding cover for rearing and migrating fish—all of which are directly tied to streamside vegetation. Numerous scientific studies and technical recovery plans have identified loss of riparian vegetation as one of the key factors in the on-going decline of chinook salmon, bull trout and steelhead. The Nooksack River (WRIA 1) Salmon Recovery Plan prioritizes restoring wood to the channel and reforesting the riparian areas along the river and salmon recovery partners in the Nooksack Watershed have spent millions of dollars in grant funding to help achieve these goals.

The changes in the vegetation variance standards are counter to our Salmon Recovery goals. Since the Corps will not authorize emergency funds to be expended for floods if the levees are not to standard, there are strong incentives for sponsors to make their levees compliant. It appears that the burden of information and the extensive review required to request a vegetation variance will make it unlikely that sponsors will seek one out. Rather than risking having levees dropped from the program, sponsors will remove the existing vegetation from the levees to be consistent with vegetation standards in ETL 1110-2-571, leading to severe degradation of the riparian conditions of the river.

The Finding of No Significant Impact (FONSI) that the change in process does not jeopardize these species or adversely modify their critical habitat is inconsistent with the Recovery Plans that cover these ESA-listed species. The implementation of the Process for Requesting a Variance from Vegetation Standards could adversely affect ESA-listed salmon and their habitat in the Nooksack River, so it is

appropriate for a full Environmental Impact Statement to review the likely affects if the changes in the vegetation variance policy are enacted.

The Nooksack Tribe believes that the changes to the Army Corps' implementation of its levee maintenance and repair program need to comply with the Endangered Species Act and protect our Usual and Accustomed Areas, and we believe that this compliance can be achieved without compromising human safety and property protection. In fact, the experience of the Whatcom County River and Flood Division indicates that the existing vegetation variances create safer levees and better protects adjacent property from debris, all while protecting critical habitat for ESA-listed species. The Nooksack Tribe is ready to work with you to resolve these inconsistencies and ensure that critical habitat is protected.

Sincerely,

A handwritten signature in black ink, appearing to read 'Narcisco', followed by a stylized flourish.

Narcisco Cunanan

Nooksack Tribal Chairman